

## **Post-Filing Agreement**

By signing this agreement, you are hiring Benjamin R. Matthews and Associates, LLC (the "Law Firm") to continue to represent you in your chapter 7 bankruptcy, Case number: 20-03131. This agreement describes the legal services we will provide to you, and the financial and other terms of this relationship. Please read this agreement carefully and let us know if you have any questions about it before signing. Once you sign this agreement, it will be binding on you and the Law Firm and can only be changed or replaced with another signed, written agreement between us.

### ***1. The Work Involved to Complete your Chapter 7 Case***

The legal services you may need to complete your Chapter 7, and the services that the Law Firm is agreeing to provide, are as follows:

- Preparing and filing your Statement of Financial Affairs and Schedules;
- Preparing and filing your Means Test calculations and disclosures;
- Conducting a second signing appointment for you to review and sign your statements and schedules;
- Preparing for and attending your Section 341 Meeting of Creditors;
- Administrating and monitoring your case and communicating with you throughout the process;
- Forwarding the Trustee Questionnaire and debtor documents to the Trustee;
- Noticing your employer to stop any garnishments;
- Reviewing and responding to Trustee requests;
- Reviewing and advising you regarding any motions for stay relief;
- Reviewing and advising you regarding any reaffirmation agreements or redemptions;
- Reviewing and advising you regarding any creditor violations;
- Any legal service required by the local rules;
- Reviewing and advising regarding any turnover demands from the Trustee
- Attending any continued Section 341 Meeting of Creditors;
- Reviewing and advising regarding any 2004 exams and attending related exam;
- Reviewing and advising you regarding any audit by the US Trustee;
- Preparing and filing claims or objections to claims when appropriate;
- Reviewing and advising you regarding any lien avoidance matters;
- Drafting and/or negotiating a reaffirmation agreement and attending any related hearing;
- Preparing and filing any amendments to your statements and schedules; and
- Preparing and filing a motion to reinstate the case.

### **Excluded Services**

Unless provided otherwise in writing below, the following services are excluded from the work that the Law Firm is agreeing to provide you:

- Representing you in any adversary proceedings, dischargeability actions and other contested bankruptcy matters.
- Representing you in any municipal, county, state or other local jurisdiction court matters.
- Representing you in any tax matters (we recommend you consult with a tax specialist about any tax matters including whether you should delay filing bankruptcy in order to discharge any tax obligations).
- Representing you in any efforts to discharge student loans.
- Pursuing creditors for violations of the automatic stay, discharge injunction or Fair Credit Reporting Act.

If the Law Firm is agreeing to provide any Excluded Services, they are limited to the following: NO SERVICES

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## ***2. Payment of Costs to Complete your Chapter 7 Case***

By entering into this agreement, you are agreeing to pay the Law Firm **\$ 1200.00** for the services described above. You can pay the fee on any of the following twelve (12) month payment schedules, and the date your first payment is due will be August 17, 2020 (you can pick any date no later than thirty (30) days after you sign this agreement).

<b><i>File Now Pay Later Payment Options</i></b>	
<b>Choose</b>	
<b>One:</b>	
<input type="checkbox"/> 52 equal weekly payments of <b><u>\$ 23.08</u></b>	
<input checked="" type="checkbox"/> 26 equal bi-weekly payments of <b><u>\$ 46.15</u></b>	
<input type="checkbox"/> 24 equal semi-monthly payments of <b><u>\$ 50.00</u></b>	
<input type="checkbox"/> 12 equal monthly payments of <b><u>\$ 100.00</u></b>	

**THERE ARE IMPORTANT DISCLOSURES CONCERNING THIS AGREEMENT THAT ARE FOUND BELOW AND THAT YOU SHOULD READ VERY CAREFULLY BEFORE SIGNING THIS AGREEMENT.**

## ***3. Information about the Lender the Law Firm Uses so it can Offer the File Now Pay Later Option***

The Law Firm will borrow money on a line of credit that it has with a company called Fresh Start Funding ("FSF"). This helps the Law Firm manage its finances when it offers you payment terms to pay your attorney fees.

FSF also assists the Law Firm in managing the payments that you will make. By signing this agreement you authorize FSF to collect payments from you electronically through a debit card or ACH transaction, and authorize the Law Firm to grant FSF a lien against the amount that you will owe under this Post-Filing Agreement. Please read and consider the following information about FSF and the Law Firm's relationship with that company, your understanding of which is acknowledged by you signing this agreement:

- A. **Higher Attorney Fee.** As described in the previous agreement you signed with the Law Firm, the *File Now Pay Later* option requires you to pay a higher attorney fee. There are a number of reasons for this:
  - a. The Law Firm performs additional work to split your engagement;
  - b. The Law Firm takes on risk by allowing you to pay your attorney fee over time instead of collecting the entire fee up front;
  - c. The *File Now Pay Later* option provides you with the benefit of a quicker filing than you might obtain if you had to come up with the money to pay in advance;
  - d. The *File Now Pay Later* option gives you an opportunity to begin rebuilding your credit score when you make timely payments toward your attorney fee;
  - e. The Law Firm will not charge you additional fees for certain services that if required would otherwise cost you more if you had paid the entire fee before your case was filed; and
  - f. FSF charges a fee for its financing, payment management, credit reporting and other services to the Law Firm, and that fee is equal to 25% of the fees that the Law Firm charges you under this Post-Filing Agreement.
- B. **Limited Sharing of Information with FSF.** Because FSF will act as the Law Firm's agent to manage your payments, the Law Firm must share limited information with FSF, including this Post-Services Filing Agreement, information about your income and employment, and personal information that you will fill out in this Agreement.
- C. **Collection Actions.** The Law Firm gives FSF a lien against the amount that you will owe under this Post-Filing Agreement, and if the Law Firm fails to meet its obligations to FSF, FSF could choose to take control over your payments to the Law Firm. If this happens and you do not make your payments when they are due, FSF could pursue collection activities against you, which could include turning over your account to a collection agency or suing you to collect what is owed, plus additional attorney fees and collection costs.
- D. **Negative Credit Reporting.** If you fail to make payments toward your attorney fee as agreed in this Post-Filing Agreement, FSF can report negatively on your credit.
- E. **Ability to Make Payments.** The statements and schedules that are filed with the court on your behalf may show that your expenses exceed your income. You nonetheless believe that the File Now Pay Later option is the best choice for you and you believe that you can make the required payments to FSF.
- F. **Underwriting Guidelines.** FSF has underwriting guidelines for determining which Law Firm clients qualify for the FSF program. If you do not meet the guidelines, the Law Firm reserves the right to not offer the File Now Pay Later option to you. The Law Firm is happy to share the underwriting guidelines with you.

#### ***4. Important Information about Conflicts of Interest***

A conflict of interest is a situation where the Law Firm's interest and your interest are, or could be, in conflict. There are a number of actual or potential conflicts of interest that we need to disclose to you.

- A. Pursuant to the Rules of Professional Conduct, the Law Firm cannot act as your counsel to help you decide whether to enter into this agreement. Nonetheless, we can explain this agreement to you and by signing

this agreement you agree that we fully explained the terms of this agreement to you and answered any questions you had regarding the matters described in this agreement.

- B. There is an inherent conflict whenever attorneys represent debtors in bankruptcy for a fee. We are working to alleviate your financial issues, while at the same time charging a fee for our services. By signing this agreement, you acknowledge that you understand this explanation and give your informed consent to waive this conflict.
- C. You are not required to sign this Post-Filing Agreement but the Law Firm filed your case hoping that you would sign it, and this creates a conflict of interest between you and the Law Firm since executing this Post-Filing Agreement obligates you to make payments that will not be discharged in your bankruptcy. By signing this agreement, you acknowledge that you understand this explanation and give your informed consent to waive this conflict.
- D. The Law Firm will borrow funds from FSF based on the amount that you owe the Law Firm. This may place the Law Firm in conflict with you since the Law Firm expects to receive payments from you in order to repay FSF, and the Law Firm wishes to maintain its business relationship with FSF. By signing this agreement, you acknowledge that you understand this explanation and give your informed consent to waive this potential conflict.
- E. As described above, the Law Firm will share limited information with FSF, including this Post-Filing Agreement, information about your income and employment, and personal information set forth in this Post-Filing Agreement. Generally, information shared between an attorney and their client may be kept secret, something known as the attorney-client privilege. By sharing the limited information with FSF, your attorney-client privilege could be waived. By signing this agreement, you acknowledge that you understand this explanation and give your informed consent to the sharing of such information and waive this potential conflict.
- F. If you choose not to sign this Post-Filing Agreement, the Law Firm may file a motion to withdraw from your case, which may create a conflict of interest if you do not want the Law Firm to withdraw. By signing this agreement, you acknowledge that you understand this explanation and give your informed consent to waive this potential conflict.
- G. If, in our opinion, a non-waivable conflict arises during our representation of you, we will be required to withdraw from your case and you will need to either proceed *pro se* or retain another attorney and incur additional legal fees. One example of a non-waivable conflict would be if the Law Firm or FSF started collection actions against you for the attorney fee that you owe under this Post-Filing Agreement. If that happens, the Law Firm ethically would no longer be able to represent you (please note, however, that FSF has agreed to not commence any collection actions against you so long as the Law Firm represents you). By signing this agreement, you acknowledge that you understand this explanation and give your informed consent to waive this potential conflict.

## **5. Your Obligations to the Law Firm, the Bankruptcy Court, and the Trustee**

Filing a chapter 7 bankruptcy obligates you to provide documents and information to the Law Firm, the Bankruptcy Court and the Trustee. You also must participate in meetings and hearings and complete certain requirements in order to finish the case and receive a discharge of your debts. More specifically:

- A. **Providing Information and Documents to the Law Firm.** For the Law Firm to fully represent your interests, you must timely provide the Law Firm with complete and truthful information and required documents, including about all property in which you have an ownership interest, and all debts you owe (secured or unsecured) and any other information regarding your financial affairs. The Law Firm is not responsible for collecting such information from your files or directly from your creditors or the public record. Complete,

accurate and reliable information from you is absolutely necessary (including complete and accurate addresses for your creditors). Not all creditors are listed in your credit reports and you are responsible for making sure all your creditors are listed in the petition with correct addresses. If you wish to add creditors, you must notify us in writing no later than 45 days after your meeting of creditors described below. You agree not to submit original documents to the Law Firm and authorize the Law Firm to digitize any documents you submit and then destroy the paper form.

- B. **Credit Counseling and Financial Management Courses.** Before your case was filed, you completed a credit counseling course. Now that your case is filed, you must complete a second, required financial management course and provide the Law Firm with a certificate proving that this course has been completed, and failing to do this will delay or prevent you from receiving your discharge and ultimately result in your case being dismissed.
- C. **Cooperating with the Chapter 7 Trustee.** The Bankruptcy Court appointed a chapter 7 trustee for your case. The trustee has various rights and duties, including the duty to investigate your financial affairs (such as the value of your assets), and the right to sell non-exempt assets to pay your creditors. By signing below, you acknowledge that you understand you have a duty to cooperate with the chapter 7 trustee.
- D. **Your Creditor's Meeting and Other Examinations.** Every person who files a chapter 7 case must attend a required hearing called the "first meeting of creditors," or "341 meeting." You must appear on the scheduled date and time and at the required location with your social security card and photo ID. The trustee will place you under oath and ask you questions that you must answer truthfully. You may also be required to attend subsequent hearings before the Trustee or Judge.

## ***6. Additional Important Terms***

- A. **Unbundling or Limited-Scope Representation.** By signing below, you acknowledge that prior to you signing this agreement, the Law Firm expressed that it was ready, willing and able to represent you for your entire chapter 7 case, even though you chose the *File Now Pay Later* option which requires you to sign this Post-Filing Agreement. You further represent that you did not enter into the first agreement with the Law Firm with the intention of having the Law Firm simply file your case and then withdraw, but instead to facilitate you making payments over time for your attorney fee so that you can have an attorney represent you through the entire chapter 7 process.
- B. **Chapter 13.** After further analysis and review of your financial situation, the Law Firm may determine that you do not qualify for a Chapter 7 or that a Chapter 13 Bankruptcy will be more appropriate. By signing below, you acknowledge that you understand that a Chapter 13 case requires significantly more work than a chapter 7 case, and the Law Firm will charge you additional costs and fees not covered by this agreement, and that this will be addressed in a separate agreement.
- C. **Required Disclosures.** By signing this agreement, you acknowledge and understand that: (1) your debts will not be discharged if a creditor or trustee proves that you lied about assets or concealed, destroyed, or transferred any property or records in violation of the Bankruptcy Code, (2) all bankruptcy papers, pleadings and petitions are signed under penalty of perjury and a false oath, concealment of assets or other allegation under the Bankruptcy Code by a creditor, trustee or the bankruptcy court may result in your discharge being denied, your case dismissed, imprisonment and other sanctions and monetary or non-monetary penalties being imposed on you, and (3) the Law Firm provided you a copy of the disclosures and notices contemplated by Section 527 of the Bankruptcy Code within three business days from when the Law Firm first offered to provide bankruptcy services.
- D. **Non-Dischargeable Debts.** Obligations you owe to a creditor or ex-spouse pursuant to a divorce decree, student loans, most tax debts, debts not listed in the Bankruptcy petition, debts for spousal or child

support or alimony, debts for willful and malicious injuries to person or property, debts to governmental units for fines and penalties, benefit overpayments, debts for personal injury caused by your operation of a motor vehicle while intoxicated, debts owed to certain tax-advantaged retirement plans, and debts for certain HOA, condominium or cooperative housing fees are not dischargeable. The government can also offset future tax refunds and government benefits if you discharge overpayment of benefits, military credit cards, or certain governmental loans such as SBA and USDA loans.

- E. **No Right to Dismissal of Your Case.** By signing below you acknowledge that you understand that once your chapter 7 was filed, you may not be able to voluntarily dismiss your case.
- F. **Arbitration of Fee Disputes.** If the applicable State Bar offers a fee arbitration program and a dispute arises between you and us regarding our fees, we both agree to resolve that dispute through the State Bar's fee arbitration program. Either party may initiate fee arbitration by contacting the State Bar.
- G. **Electronic Data.** You authorize the Law Firm to communicate with you via facsimile, mobile telephone, text message and e-mail, including leaving voice mail messages with details about your case. No form of communication is completely secure, and these forms of communication have some risk of improper interception. The Law Firm retains many file documents in electronic format only and these may be stored on a separate third-party server. You agree to check your e-mail regularly for important communications relating to your case. You represent to the Law Firm that third parties (e.g., employers or family members) do not have access to your e-mail, voicemail and text messages, and that you can receive confidential correspondence from the Law Firm in this manner. The Law Firm may assume that you are receiving and reviewing your e-mails at that email address unless you alert the Law Firm to an issue or a new email address. You will check your junk and spam folders to make sure your e-mail filters do not block e-mails from the Law Firm and confirm that the allowable size of incoming e-mails is sufficient to accept e-mails from the Law Firm with attachments.
- H. **Right of Rescission.** If you wish to cancel this agreement, you must notify us in writing of the cancellation within three (3) business days from the date you sign. If you cancel, we will ask the bankruptcy court to allow us to withdraw as your lawyer in accordance with the bankruptcy rules, but we will continue to represent you in the case and perform all necessary services until and unless the bankruptcy court allows us to withdraw.
- I. **File Retention.** You understand that the Law Firm will only retain your client file for 6 years. Following that time period, copies of your bankruptcy papers and discharge order may be obtained through the clerk of the bankruptcy court.
- J. **Payments and FSF Authorizations.** You (i) authorize FSF, as an agent of the Law Firm, to collect the payments described above and debit the listed debit card and/or bank account until the Contract Amount is paid in full, (2) authorize your depository institution to debit the same to your account, (3) agree that the Law Firm may collaterally assign to FSF the payments due the Law Firm as collateral for financing, (4) authorize FSF to communicate with you via mail, e-mail, text, and/or telephone, (5) agree that if a payment does not process for any reason, the payment may be re-attempted multiple times and on different dates until the payment clears, even if it means the end date of this payment contract will be extended, (6) agree that FSF may accept and rely upon telephonic or electronic communications from you confirming modified payment terms, (7) agree that an additional \$25.00 may be charged for each returned payment, which charge may be debited from your account separately from your regular recurring payment, and (8) certify that you are an authorized user of the debit card and/or bank account described below.

